

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

OCT 18 2011

Per

CIVIL ACTION NO. 3:11-CV-1415
DEA/3:11-CV-1415 CLERK

JOSEPH BREELAND,

Plaintiff,

v.

DR. DOLL, et al.,

Defendants.

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, THIS 17 DAY OF OCTOBER, 2011, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Joseph Breeland, a prisoner confined at the State Correctional Institution-Smithfield, Huntingdon, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on August 1, 2011;

(2) The action was assigned to Magistrate Judge Martin C. Carlson for Report and Recommendation;

(3) Pending before the court are three motions (Docs. 8, 17, and 26) which essentially request injunctive relief, namely, that the court direct prison personnel to transfer plaintiff to another prison;

(4) On September 22, 2011, the Magistrate Judge issued a Report and Recommendation (Doc. 31) wherein he recommended that the plaintiff's motions be denied without prejudice;

(5) Specifically, after setting forth the legal requirements, the Magistrate Judge found that plaintiff failed to make a sufficient showing of what is required for preliminary injunctive relief;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation;

(9) After reviewing the motions filed by plaintiff, we agree with the Magistrate Judge that plaintiff's claims do not warrant this extraordinary form of injunctive relief;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson dated September 22, 2011 (Doc. 31) is **ADOPTED**;

(2) The plaintiff's motions for injunctive relief (Docs. 8, 17, and 26) are **DENIED** without prejudice; and

(3) The above-captioned action is remanded to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge